

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BILLY TYLER,

Plaintiff,

vs.

RON RIETHMUELLER, et al.,

Defendants.

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4:07cv3047

MEMORANDUM AND ORDER

The plaintiff, Billy Tyler, filed this action as a prisoner subject to the "three strikes" provision of the Prison Litigation Reform Act ("PLRA"), 28 U.S.C. § 1915(g). Because his complaint did not meet the only exception to the "three strikes" rule, i.e., that he was in "imminent danger of serious physical injury," the court denied the plaintiff's Application to Proceed in Forma Pauperis ("IFP") and gave the plaintiff a deadline to pay the court's filing fee. The plaintiff filed an appeal, and that appeal has now been dismissed. The deadline to pay the fee has expired.<sup>1</sup> Therefore, this case is dismissed, without prejudice, for lack of prosecution.<sup>2</sup> Judgment will be entered accordingly.

SO ORDERED.

April 9, 2007.

BY THE COURT:

*s/ Richard G. Kopf*  
United States District Judge

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<sup>1</sup>In addition, the plaintiff has since been released from custody, and he is now free to file an action as a nonprisoner.

<sup>2</sup>See NECivR 41.1, which states in pertinent part: "At any time when it appears that any action is not being prosecuted with reasonable diligence the court may dismiss it for lack of prosecution."